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C O N F I D E N T I A L CARACAS 001508

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E.O. 12958: DECL: 04/20/2014  
TAGS: [PGOV](#) [PHUM](#) [KDEM](#) [VE](#)  
SUBJECT: SUPREME COURT LAW PASSED

Classified By: POLITICAL COUNSELOR ABELARDO A. ARIAS FOR REASONS 1.4 (d  
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SUMMARY  
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[11.](#) (C) The National Assembly completed the second reading of the Organic Law of the Supreme Court of Justice (TSJ) April [130](#). The bill, which now goes to committee before further consideration by the plenary, would:  
-- raise the number of Supreme Court judges from 20 to 32;  
-- allow the judges to be appointed by a simple majority of the National Assembly;  
-- give the Human Rights Ombudsman, Attorney General and Comptroller General the power to suspend judges;  
-- and allow the Assembly to revoke judicial confirmations by a simple majority. Chavez opponents believe it will be three to five months before new judges are appointed, but are concerned that Chavez supporters will move quickly to suspend judges they do not like from the TSJ. End Summary.

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Marathon sessions to pass law  
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[12.](#) (C) The National Assembly (NA) has been considering the Organic Law of the Supreme Court of Justice since January of [12003](#). The pro-GOV majority, called the Bloque del Cambio (BC - Alliance for Change) used three tactics to pass the law on this reading. First, they reduced the bill from 179 articles to 23, by combining articles and dropping some parts of the law. They also modified internal NA debate rules six times to restrict the extensive debates that the opposition had used as a delaying tactic. BC legislators then used marathon NA sessions, extending through the night, to push the shortened bill through the NA.

[13.](#) (C) Opposition deputies charge that the changes to internal NA rules, and the compression of the articles violate parliamentary procedures and standards for drafting laws. Primero Justicia deputy Gerardo Blyde told members of the diplomatic corps on May 4 that legislators did not see amended texts, some of them five to six pages in length, until they were brought up for a vote. NA rules, Blyde said, require texts to be distributed five days in advance.

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Next Steps  
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[14.](#) (C) The bill now goes to the Internal Politics commission for fine tuning before being returned to the plenary for another vote. The commission has ten days, but according to legislator Leopoldo Martinez, the Bloque del Cambio could succeed in turning the bill back to the plenary as early as May 6. The bill would then be sent to the President, who has 10 days to approve it, send it back to the NA for changes, or send it to the TSJ, according to article 214 of the Constitution. Names of GOV supporters are already being floated in the papers. Among those whose names are being rumored to be candidates for the new judgeships, according to press reports, are NA Deputy Luis Velasquez Alvaray (Movimiento Quinta Republica), who led the push to pass the law, and Marisol Plaza, the Solicitor General.

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Main Points  
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[15.](#) (U) Chavez opponents note that the main provision of the bill is to expand the number of TSJ judges from 20 to 32. The GOV argument is that the extra judges are needed to bring down the backlog of cases before the TSJ. The opposition argues it is an attempt to solidify the Chavista's hold on chambers they already control, and take control of the ones they do not. The law would also allow the NA to approve judges with a simple majority vote after three failed attempts to get a two thirds majority. The law would also give the NA more control over the appointments committee that

recommends candidates to the NA, and reduce the influence of the TSJ on the committee. According to Martinez, it would take three to five months for the first new judges to be appointed.

16. (C) Martinez also warned about two other features of the law which will become operative much sooner. The "Citizen Power," composed of the Human Rights Ombudsman, the Controller General, and the Attorney General (all Chavista appointees) can suspend judges when they have committed serious infractions. This suspension must then be accepted or rejected by a two-thirds majority of the NA. Until such a decision, the judge would remain out of office. Blyde asserted that this provision violates the constitution and gives Chavez supporters the ability to side-line judges without having to convince two-thirds of the legislature of the charges.

17. (C) Another article allows a majority NA vote to remove any justice from the TSJ who is found to have made false statements in the nominations process. Martinez said this is designed to get rid of Franklin Arrieché, justice of the Civil Chamber, and Vice President of the full court. According to Martinez, these very rapid steps could give the GOV control of the TSJ long before any judges are appointed, and in time to prevent an adverse ruling from the full court on the dispute between the Electoral and Constitutional Chambers over their competency to rule on the Presidential recall referendum.

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Opposition Complaints  
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18. (C) In addition to Blyde's complaints about the tactics used to pass the law, poor legislative craftwork and constitutional violation, Carlos Tablante of the Movimiento Hacia el Socialismo (MAS) called the bill "a parliamentary coup d'etat which will gravely injure the Judicial Power." Teodoro Petkoff argued in his May 4 newspaper column that for all intents and purposes, President Chavez is now de facto President of the Supreme Court. Opposition leaders continue to examine options to fight the law. One possible avenue is a repeal referendum, which would require the signatures of ten percent of the people on the electoral register to activate it. They are also considering taking the law before the TSJ.

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COMMENT  
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19. (C) With this law, the Chavistas hope to take firm control of all the chambers of the TSJ, ending any serious judicial review of their actions. Besides the ability to appoint loyal judges, the law gives the Chavistas running the Citizen Power a huge stick with which to threaten any judge who might dare to oppose the government. This power will be the first to come on line, and may be enough to render the opposition's judicial strategy moot. The only real hope for the TSJ is if the Court itself decides to intervene in its own defense. The idea of a repeal referendum is almost a non-starter, given the history of the presidential recall referendum. The Chavez success on the TSJ law bodes ill for other legislation that the revolution has deemed a priority. The next target is the media law. No doubt we will see many of the same tactics to push the draft through without compromise or meaningful debate.  
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